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Approved For Release 2001/10/30 : CIA-RDP57-00384R000400180037-1

OGC Has Reviewed

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Security Information

17 November 1952

CAO, ID/P

Office of General Counsel

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Hardship Claim-

1. Reference is made to memorandum to you dated 6 October 1952 from Chief, SE with cover sheet which has been referred to this office for an opinion. Two problems are presented. 25X1A

a. The first is whether or not [redacted] may properly be reimbursed for one month's advance rent of \$120 which he had forfeited when his permanent duty station was changed unexpectedly from [redacted]

b. The second concerns a claim for reimbursement for \$390 computed at the rate of \$3 per day for 130 days from 23 September 1951, date of PCS [redacted] to 31 January 1952, the period during which it is stated that [redacted] incurred additional expense because of inability to find adequate living quarters for his family at [redacted]

2. a. The first question presented is one not peculiar to the CIA, but rather may occur anywhere in the government structure and constitutes a normal risk of government service, be it CIA or any other agency. Without dwelling on the regulation or law, it is well established that had [redacted] been connected with any other branch of the government the claim necessarily would have been denied.

b. With respect to the use of the authority contained in [redacted] for payment of the \$120, attention is invited to the decision of the Comptroller General in connection with the use by CIA of its unusual authorities to grant a retroactive pay increase (31 Comp. Gen. 191 dated 21 November 1951) wherein it is stated in part:

"I feel certain it was not contemplated by the sponsors of the bill or by the Congress that this broad authority would be resorted to, or that it even contemplated a disregard of any control with respect to the normal administrative or operating problems which confront the ordinary Government agency."

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c. In summary, it is the opinion of this office that to reimburse for this type of expenditure which, throughout the government is considered personal no matter how unfortunate, would in the absence of very peculiar circumstances not here shown be an improper use of the authority contained in [REDACTED]

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3. a. With respect to the second question presented, it may be stated that [REDACTED] family, had it been moved to [REDACTED] at the time of assignment of PCS would have become eligible for temporary lodging allowance under Sec. 901 of the Foreign Service Act of 1946 [REDACTED]

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([REDACTED] himself was eligible for this allowance.) However, from the factual situation presented, it is doubtful if [REDACTED] would be subject to a great deal of criticism for failing to do this. Just three weeks previously, after having been reassured of PCS [REDACTED] he had after some searching found suitable quarters for his family in [REDACTED] Housing was stated to be "extremely difficult to obtain in [REDACTED]." A further shift of the family from comfortable quarters to a place not too distant where there was no immediate assurance of adequate quarters would certainly not have appeared desirable or practical.

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b. Regardless of the foregoing and of greater importance, however, is the fact that the administrative office involved could very well and simply have provided for [REDACTED] situation, particularly in view of the unexpected turn of events regarding PCS, by delaying his PCS to [REDACTED] until he should have had a reasonable time to search for family quarters there. He would during this time have been eligible for per diem. Informal inquiry at the State Department reveals that this is a not unusual means of handling a situation of this nature. It is apparent, therefore, that to pay Mr. [REDACTED] claim of \$390 would not subject the Agency to any expense for which it might not have been liable normally.

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c. Based on the foregoing considerations including the facts as outlined in referenced memorandum, there appears to be no legal objection to the payment of [REDACTED] claim for \$390 under the authority granted under [REDACTED]

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Distribution:

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Attachments: subject correspondence

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ORIGINAL DOCUMENT MISSING PAGE(S):

ATTACHMENT